

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ANTHONY CZAPLINSKI,	§	SA:16-CV-444-DAE
	§	
Plaintiff,	§	
	§	
VS.	§	
	§	
CAROLYN W. COLVIN, Acting Commissioner of the Social Security Administration,	§	
	§	
Defendant.	§	
	§	

**ORDER ADOPTING MEMORANDUM AND
RECOMMENDATION OF MAGISTRATE JUDGE**

Before the Court is a Memorandum and Recommendation of United States Magistrate Judge John W. Primomo, recommending that the above-numbered case be **DISMISSED WITHOUT PREJUDICE** (Dkt. # 6). For the reasons stated below, this Court **ADOPTS** the recommendations of the Magistrate Judge.

BACKGROUND

On May 11, 2016, Mr. Czaplinski filed a complaint before this Court seeking review of a claim for social security disability insurance benefits and supplemental security income claim. (Dkt. # 1.) On June 3, 2016, the Magistrate Judge ordered Mr. Czaplinski to revise his submission to proceed in forma pauperis. (Dkt. # 2.) On June 22, 2016, Mr. Czaplinski filed a revised application

to proceed in forma pauperis. (Dkt. # 4.) On June 27, 2016, the Magistrate Judge granted Mr. Czaplinski in forma pauperis status, and ordered him to submit by July 12, 2016, a fully completed United States Marshal Form 285 for service upon Carolyn W. Colvin, Loretta Lynch, and Richard L. Durbin, Jr. (Dkt. # 5 at 1–2.) As of this date, Mr. Czaplinski has not submitted a completed Marshal Form 285, nor has he filed any motion, notice, or other pleading in the matter.

LEGAL STANDARD

Any party who desires to object to a Magistrate Judge's findings and recommendations must serve and file written objections within fourteen days after being served with a copy of the findings and recommendation. Fed. R. Civ. P. 72(b)(2). The Court conducts a de novo review of any of the Magistrate Judge's conclusions to which a party has specifically objected. See 28 U.S.C. § 636(b)(1)(C) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made."). Findings to which no specific objections are made do not require de novo review; the Court need only determine whether the Report and Recommendation is clearly erroneous or contrary to law. United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989).

ANALYSIS

Mr. Czaplinski acknowledged receipt of the Magistrate's Memorandum and Recommendation on August 23, 2016. (Dkt. # 9.) However, he did not file objections. Accordingly, the Memorandum and Recommendation is reviewed only to determine whether it is clearly erroneous or contrary to law. See Wilson, 864 F.2d at 1121.

Federal Rule of 41(b) permits the Court to dismiss an action for failure to prosecute or failure to comply with a court order. Fed. R. Civ. P. 41(b). The Magistrate Judge determined that, because Mr. Czaplinski has neither prosecuted his case nor complied with the Court's June 22, 2016 Order, the case should be dismissed without prejudice pursuant to Federal Rule 41(b). This determination is neither clearly erroneous nor contrary to law.

Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the Magistrate Judge (Dkt. # 6). This matter is **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

DATED: San Antonio, Texas, September 12, 2016.



David Alan Ezra
Senior United States District Judge